

DATE: August 9, 2006

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 05-02622

DECISION OF ADMINISTRATIVE JUDGE

JAMES A. YOUNG

APPEARANCES

FOR GOVERNMENT

Candace Le'i, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant failed to establish he was financially stable or would be able to resolve his more than \$16,800 in delinquent debts in the near future. Clearance is denied.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. As required by Department of Defense Directive 5220.6 ¶ E3.1.2 (Jan. 2, 1992), as amended, DOHA issued a Statement of Reasons (SOR) on 28 September 2005, detailing the basis for its decision-security concerns raised under Guideline F (Financial Considerations) of the Directive. Applicant answered the SOR in writing on 30 October 2005 and elected to have the case decided on the written record in lieu of a hearing. Department Counsel submitted the Government's written case on 12 January 2006. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the disqualifying conditions. Applicant received the FORM on 23 June 2006 and did not respond. The case was assigned to me on 2 August 2006.

FINDINGS OF FACT

Applicant is a 31-year-old translator for a defense contractor. He claims to have served in the U.S. Air Force from December 1993 to February 1996 and separated as a staff sergeant (E-5) with a general discharge under honorable conditions. Ex. 4 at 8, 9. He received a security clearance from the Department of Defense in 1997. *Id.* at 11.

In the SOR, DOHA alleged Applicant had delinquent accounts totaling more than \$15,900 in collection status (¶¶ 1.a-1.d, 1.h-1.l), delinquent debts totaling more than \$885 that had been charged off (¶¶ 1.e-1.g), and insufficient income after paying monthly bills to make payments on his delinquent debts (¶ 1.m). In his answer to the SOR, Applicant admitted each of the allegations. However, in interrogatories (Ex. 7), Applicant asserts that several years ago he

contested the debt alleged in ¶ 1.c (Cartown/Autoprime for \$4,754 owed after resale of his repossessed auto); the creditor for the debt alleged in ¶ 1.f (Citibank for \$260 charged off as a bad debt) has no record of any debt under his social security number or the account number alleged; he paid the account alleged in ¶ 1.g (Tax Master for \$112); and he made arrangements to pay the debt alleged in ¶ 1.a (Portfolio for \$95.78). Applicant did not supply any evidence to corroborate these assertions. His latest personal financial statement shows he has no money at the end of the month to pay off his delinquent debts. *Id.* at 7.

Applicant claims he handled credit responsibly until he was separated from the Air Force and let "a lot of [his] financial responsibilities go unpaid." Ex. 6. He reports he has refinanced his car and is going to move in with family to save money so he can pay his debts. Ex. 7 at 9. Applicant did not provide any corroboration to show he had completed these transactions or has paid any of the debts alleged.

POLICIES

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has "the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information." *Id.* at 527. The President authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960). Each security clearance decision "must be a fair and impartial common sense determination based upon consideration of all the relevant and material information and the pertinent criteria and adjudication policy." Directive ¶ 6.3. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3.

Enclosure 2 of the Directive sets forth personnel security guidelines, as well as the disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. In evaluating the security worthiness of an applicant, the administrative judge must also assess the adjudicative process factors listed in ¶ 6.3 of the Directive. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant. *See* Exec. Or. 10865 § 7. It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

CONCLUSIONS

An applicant who is financially overextended is at risk of having to engage in illegal acts to generate funds. Directive ¶ E2.A6.1.1. Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness and ability to protect classified information.

Through Applicant's admissions in his Answer, the Government established each of the allegations in the SOR. It is potentially disqualifying for an applicant to have a history of not meeting his financial obligations (DC E2.A6.1.2.1) or to be unable or unwilling to satisfy his debts (DC E2.A6.1.2.3).

An applicant may mitigate financial considerations security concerns by establishing that his financial situation resulted largely from conditions beyond his control (MC E2.A6.1.3.3), that he has received counseling and there are clear indications the problem is under control (MC E2.A6.1.3.4) or he has initiated a good-faith effort to resolve the debts (MC E2.A6.1.3.6). Applicant failed to produce any evidence to convince me that he has the ability to repay these delinquent debts, that any of these mitigating conditions apply, or that it is in the national interest to grant him a security clearance.

FORMAL FINDINGS

The following are my conclusions as to each allegation in the SOR:

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraphs 1.a-1.m: Against Applicant

DECISION

In light of all of the circumstances in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is denied.

James A. Young

Administrative Judge